

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 202**  
**91ST GENERAL ASSEMBLY**

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Reported from the Committee on Local Government and Economic Development, April 12, 2001, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

0668S.05C

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**AN ACT**

To repeal sections 238.207, 238.216, 238.220, 238.235 and 238.252, RSMo 2000, relating to transportation development districts, and to enact in lieu thereof five new sections relating to the same subject, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

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Section A. Sections 238.207, 238.216, 238.220, 238.235 and 238.252, RSMo 2000, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 238.207,  
3 238.216, 238.220, 238.235 and 238.252, to read as follows:

238.207. 1. Whenever the creation of a district is desired, not less than fifty  
2 registered voters from each county partially or totally within the proposed district, **except**  
3 **public streets**, may file a petition requesting the creation of a district. However, if no  
4 persons eligible to be registered voters reside within the district, the owners of record of all  
5 of the real property located within the proposed district may file a petition requesting the  
6 creation of a district. The petition shall be filed in the circuit court of any county partially or  
7 totally within the proposed district.

8 2. Alternatively, the governing body of any local transportation authority within any  
9 county in which a proposed project may be located may file a petition in the circuit court of  
10 that county, requesting the creation of a district.

11 3. The proposed district area shall be contiguous and may contain all or any portion  
12 of one or more municipalities and counties. **Property separated only by public streets**  
13 **shall be considered contiguous.**

14 4. The petition shall set forth:

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

15 (1) The name, voting residence and county of residence of each individual petitioner,  
16 or, if no persons eligible to be registered voters reside within the proposed district, the name  
17 and address of each owner of record of real property located within the proposed district, or  
18 shall recite that the petitioner is the governing body of [that city or county] **a local**  
19 **transportation authority** acting in its official capacity;

20 (2) The name and address of each respondent. Respondents must include the  
21 commission and each affected local transportation authority within the proposed district,  
22 except a petitioning local transportation authority;

23 (3) A specific description of the proposed district boundaries including a map  
24 illustrating such boundaries;

25 (4) A general description of each project proposed to be undertaken by that district,  
26 including a description of the approximate location of each project;

27 (5) The name of the proposed district;

28 (6) The number of members of the board of directors of the proposed district, which  
29 shall be not less than five or more than fifteen;

30 (7) A statement that the terms of office of initial board members shall be staggered  
31 in approximately equal numbers to expire in one, two or three years;

32 (8) If the petition was filed by registered voters or by a governing body, a request that  
33 the question be submitted to the qualified voters [residing] within the limits of the proposed  
34 district whether they will establish a transportation development district to develop a  
35 specified project or projects;

36 (9) A proposal for funding the district initially, pursuant to the authority granted in  
37 sections 238.200 to 238.275, together with a request that the funding proposal be submitted  
38 to the qualified voters residing within the limits of the proposed district; provided, however,  
39 the funding method of special assessments may also be approved as provided in subsection  
40 1 of section 238.230; and

41 (10) A statement that the proposed district shall not be an undue burden on any  
42 owner of property within the district and is not unjust or unreasonable.

238.216. 1. Except as otherwise provided in section 238.220 with respect to the  
2 election of directors, in order to call any election required or allowed under sections 238.200  
3 to 238.275, the circuit court shall:

4 (1) Order the county clerk to cause the questions to appear on the ballot on the next  
5 regularly scheduled general, primary or special election day, which date shall be the same in  
6 each county or portion of a county included within and voting upon the proposed district; [or]

7 (2) If the election is to be a mail-in election, specify a date on which ballots for the  
8 election shall be mailed, which date shall be a Tuesday, and shall be not earlier than the

9 eighth Tuesday from the issuance of the order, and shall not be on the same day as an  
 10 election conducted under the provisions of chapter 115, RSMo; or

11 **(3) If all the owners of property in the district joined in the petition for**  
 12 **formation of the district, such owners may cast their ballot by unanimous petition**  
 13 **approving any measure submitted to them as voters pursuant to this chapter. Each**  
 14 **owner shall receive one vote per acre owned. Fractional votes shall be**  
 15 **allowed. The petition shall be submitted to the circuit court clerk who shall verify**  
 16 **the authenticity of all signatures thereon. The filing of a unanimous petition shall**  
 17 **constitute an election under sections 238.200 to 238.275 and the results of said**  
 18 **election shall be entered pursuant to subsection 6 of section 238.216.**

19 2. Application for a ballot shall be conducted as follows:

20 (1) Only qualified voters shall be entitled to apply for a ballot;

21 (2) Such persons shall apply with the clerk of the circuit court in which the petition  
 22 was filed;

23 (3) Each person applying shall provide:

24 (a) Such person's name, address, mailing address, and phone number;

25 (b) An authorized signature; and

26 (c) Evidence that such person is entitled to vote. Such evidence shall be:

27 a. For resident individuals, proof of registration from the election authority;

28 b. For owners of real property, a tax receipt or deed or other document which  
 29 evidences ownership, and identifies the real property by location;

30 (4) No person shall apply later than the fourth Tuesday before the date for mailing  
 31 ballots specified in the circuit court's order.

32 3. If the election is to be a mail-in election, the circuit court shall mail a ballot to each  
 33 qualified voter who applied for a ballot pursuant to subsection 2 of this section along with a  
 34 return addressed envelope directed to the circuit court clerk's office with a sworn affidavit on  
 35 the reverse side of such envelope for the voter's signature. Such affidavit shall be in the  
 36 following form:

37 I hereby declare under penalties of perjury that I am qualified to vote, or to affix my  
 38 authorized signature in the name of an entity which is entitled to vote, in this election.

39 Subscribed and sworn to before me this ..... day of ....., [19] 20...

40 .....

41 Authorized Signature

42 .....  
 43 Printed Name of Voter

44 Signature of notary or other  
 officer authorized to

administer oaths.

.....

Mailing Address of Voter

(if different)

4. Except as otherwise provided in subsection 2 of section 238.220, with respect to the election of directors, each qualified voter shall have one vote. Each voter which is not an individual shall determine how to cast its vote as provided for in its articles of incorporation, articles of organization, articles of partnership, bylaws, or other document which sets forth an appropriate mechanism for the determination of the entity's vote. If a voter has no such mechanism, then its vote shall be cast as determined by a majority of the persons who run the day-to-day affairs of the voter. Each voted ballot shall be signed with the authorized signature.

5. Mail-in voted ballots shall be returned to the circuit court clerk's office by mail or hand delivery no later than 5:00 p.m. on the sixth Tuesday after the date for mailing the ballots as set forth in the circuit court's order. The circuit court's clerk shall transmit all voted ballots to a team of judges of not less than four, with an equal number from each of the two major political parties. The judges shall be selected by the circuit court from lists compiled by the election authority. Upon receipt of the voted ballots, the judges shall verify the authenticity of the ballots, canvass the votes, and certify the results. Certification by the election judges shall be final and shall be immediately transmitted to the circuit court. Any qualified voter who voted in such election may contest the result in the same manner as provided in chapter 115, RSMo.

6. The results of the election shall be entered upon the records of the circuit court of the county in which the petition was filed. Also, a certified copy thereof shall be filed with the county clerk of each county in which a portion of the proposed district lies, who shall cause the same to be spread upon the records of the county commission.

238.220. 1. Notwithstanding anything to the contrary contained in section 238.216, if any persons eligible to be registered voters reside within the district the following procedures shall be followed:

(1) After the district has been declared organized, the court shall upon petition of any interested person order the county clerk to cause an election to be held in all areas of the district within one hundred twenty days after the order establishing the district, to elect the district board of directors which shall be not less than five nor more than fifteen;

(2) Candidates shall pay the sum of five dollars as a filing fee to the county clerk and shall file with the election authority of such county a statement under oath that he **or she** possesses all of the qualifications set out in this section for a director. Thereafter, such

11 candidate shall have his **or her** name placed on the ballot as a candidate for director;

12 (3) The director or directors to be elected shall be elected at large. The candidate  
13 receiving the most votes from qualified voters shall be elected to the position having the  
14 longest term, the second highest total votes elected to the position having the next longest  
15 term, and so forth. Each initial director shall serve the one-, two- or three-year term to which  
16 he **or she** was elected, and until [his] a successor is duly elected and qualified. Each  
17 successor director shall serve a three-year term. The directors shall nominate and elect an  
18 interim director to complete any unexpired term of a director caused by resignation or  
19 disqualification; and

20 (4) Each director shall be a resident of the district. Directors shall be registered  
21 voters at least twenty-one years of age.

22 2. Notwithstanding anything to the contrary contained in section 238.216, if no  
23 persons eligible to be registered voters reside within the district, the following procedures  
24 shall apply:

25 (1) Within thirty days after the district has been declared organized, the circuit clerk  
26 of the county in which the petition was filed shall, upon giving notice by causing publication  
27 to be made once a week for two consecutive weeks in a newspaper of general circulation in the  
28 county, the last publication of which shall be at least ten days before the day of the meeting  
29 required by this section, call a meeting of the owners of real property within the district at  
30 a day and hour specified in a public place in the county in which the petition was filed for the  
31 purpose of electing a board of not less than five and not more than fifteen directors, to be  
32 composed of owners or representatives of owners of real property in the district; **provided**  
33 **that, if all the owners of property in the district joined in the petition for formation**  
34 **of the district, such meeting may be called by order of the court without further**  
35 **publication;**

36 (2) The property owners, when assembled, shall organize by the election of a chairman  
37 and secretary of the meeting who shall conduct the election. At the election, each acre of real  
38 property within the district shall represent one share, and each owner may have one vote in  
39 person or by proxy for every acre of real property owned by such person within the district;

40 (3) The one-third of the initial board members receiving the most votes shall be  
41 elected to positions having a term of three years. The one-third of initial board members  
42 receiving the next highest number of votes shall be elected to positions having a term of two  
43 years. The lowest one-third of initial board members receiving sufficient votes shall be elected  
44 to positions having a term of one year. Each initial director shall serve the term to which he  
45 **or she** was elected, and until [his] a successor is duly elected and qualified. Successor  
46 directors shall be elected in the same manner as the initial directors at a meeting of the real

47 property owners called by the board. Each successor director shall serve a three-year  
48 term. The directors shall nominate and elect an interim director to complete any unexpired  
49 term of a director caused by resignation or disqualification;

50 (4) Directors shall be at least twenty-one years of age.

51 3. The commission shall appoint one or more advisors to the board, who shall have  
52 no vote but shall have the authority to participate in all board meetings and discussions,  
53 whether open or closed, and shall have access to all records of the district and its board of  
54 directors.

55 4. If the proposed project is not intended to be merged into the state highways and  
56 transportation system under the commission's jurisdiction, the local transportation authority  
57 that will assume maintenance of the project shall appoint one or more advisors to the board  
58 of directors who shall have the same rights as advisors appointed by the commission.

238.235. 1. (1) Any transportation development district may by resolution impose  
2 a transportation development district sales tax on all retail sales made in such transportation  
3 development district which are subject to taxation pursuant to the provisions of sections  
4 144.010 to 144.525, RSMo, except such transportation development district sales tax shall not  
5 apply to the sale or use of motor vehicles, trailers, boats or outboard motors nor to all sales  
6 of electricity or electrical current, water and gas, natural or artificial, nor to sales of service  
7 to telephone subscribers, either local or long distance. Such transportation development  
8 district sales tax may be imposed for any transportation development purpose designated by  
9 the transportation development district in its ballot of submission to its qualified voters,  
10 except that no resolution enacted pursuant to the authority granted by this section shall be  
11 effective unless the board of directors of the transportation development district submits to  
12 the qualified voters of the transportation development district, [at a state general, primary,  
13 or special election,] a proposal to authorize the board of directors of the transportation  
14 development district to impose a tax pursuant to the provisions of this section.

15 (2) The ballot of submission shall contain, but need not be limited to, the following  
16 language:

17 Shall the transportation development district of ..... (transportation development  
18 district's name) impose a transportation development district-wide sales tax at the rate of  
19 ..... (insert amount) for a period of ..... (insert number) years from the date on which such  
20 tax is first imposed for the purpose of ..... (insert transportation development purpose)?

21 YES

NO

22 If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed  
23 to the question, place an "X" in the box opposite "NO".

24 If a majority of the votes cast on the proposal by the qualified voters voting thereon are in

25 favor of the proposal, then the resolution and any amendments thereto shall be in effect. If  
26 a majority of the votes cast by the qualified voters voting are opposed to the proposal, then  
27 the board of directors of the transportation development district shall have no power to  
28 impose the sales tax authorized by this section unless and until the board of directors of the  
29 transportation development district shall again have submitted another proposal to authorize  
30 it to impose the sales tax pursuant to the provisions of this section and such proposal is  
31 approved by a majority of the qualified voters voting thereon.

32 (3) The sales tax authorized by this section shall become effective on the first day of  
33 the month following adoption of the tax by the qualified voters.

34 (4) In each transportation development district in which a sales tax has been imposed  
35 in the manner provided by this section, every retailer shall add the tax imposed by the  
36 transportation development district pursuant to this section to the retailer's sale price, and  
37 when so added such tax shall constitute a part of the price, shall be a debt of the purchaser  
38 to the retailer until paid, and shall be recoverable at law in the same manner as the purchase  
39 price.

40 (5) In order to permit sellers required to collect and report the sales tax authorized  
41 by this section to collect the amount required to be reported and remitted, but not to change  
42 the requirements of reporting or remitting tax or to serve as a levy of the tax, and in order to  
43 avoid fractions of pennies, the transportation development district may establish appropriate  
44 brackets which shall be used in the district imposing a tax pursuant to this section in lieu of  
45 those brackets provided in section 144.285, RSMo.

46 (6) All revenue received by a transportation development district from the tax  
47 authorized by this section which has been designated for a certain transportation  
48 development purpose shall be deposited in a special trust fund and shall be used solely for  
49 such designated purpose. Upon the expiration of the period of years approved by the qualified  
50 voters pursuant to subdivision (2) of this subsection or if the tax authorized by this section  
51 is repealed pursuant to subsection 6 of this section, all funds remaining in the special trust  
52 fund shall continue to be used solely for such designated transportation development  
53 purpose. Any funds in such special trust fund which are not needed for current expenditures  
54 may be invested by the board of directors in accordance with applicable laws relating to the  
55 investment of other transportation development district funds.

56 (7) The sales tax may be imposed [at a rate] **in increments** of one-eighth of one  
57 percent, [one-fourth of one percent, three-eighths of one percent, one-half of one percent or  
58 one] **up to a maximum of one** percent on the receipts from the sale at retail of all tangible  
59 personal property or taxable services at retail within the transportation development district  
60 adopting such tax, if such property and services are subject to taxation by the state of

61 Missouri pursuant to the provisions of sections 144.010 to 144.525, RSMo, except such  
62 transportation development district sales tax shall not apply to the sale or use of motor  
63 vehicles, trailers, boats or outboard motors nor to public utilities. Any transportation  
64 development district sales tax imposed pursuant to this section shall be imposed at a rate  
65 that shall be uniform throughout the district.

66 2. The resolution imposing the sales tax pursuant to this section shall impose upon  
67 all sellers a tax for the privilege of engaging in the business of selling tangible personal  
68 property or rendering taxable services at retail to the extent and in the manner provided in  
69 sections 144.010 to 144.525, RSMo, and the rules and regulations of the director of revenue  
70 issued pursuant thereto; except that the rate of the tax shall be the rate imposed by the  
71 resolution as the sales tax and the tax shall be reported and returned to and collected by the  
72 transportation development district.

73 3. On and after the effective date of any tax imposed pursuant to this section, the  
74 transportation development district shall perform all functions incident to the administration,  
75 collection, enforcement, and operation of the tax. The tax imposed pursuant to this section  
76 shall be collected and reported upon such forms and under such administrative rules and  
77 regulations as may be prescribed by the transportation development district.

78 4. (1) All applicable provisions contained in sections 144.010 to 144.525, RSMo,  
79 governing the state sales tax, sections 32.085 and 32.087, RSMo, and section 32.057, RSMo,  
80 the uniform confidentiality provision, shall apply to the collection of the tax imposed by this  
81 section, except as modified in this section.

82 (2) All exemptions granted to agencies of government, organizations, persons and to  
83 the sale of certain articles and items of tangible personal property and taxable services  
84 pursuant to the provisions of sections 144.010 to 144.525, RSMo, are hereby made applicable  
85 to the imposition and collection of the tax imposed by this section.

86 (3) The same sales tax permit, exemption certificate and retail certificate required by  
87 sections 144.010 to 144.525, RSMo, for the administration and collection of the state sales tax  
88 shall satisfy the requirements of this section, and no additional permit or exemption  
89 certificate or retail certificate shall be required; except that the transportation development  
90 district may prescribe a form of exemption certificate for an exemption from the tax imposed  
91 by this section.

92 (4) All discounts allowed the retailer pursuant to the provisions of the state sales tax  
93 laws for the collection of and for payment of taxes pursuant to such laws are hereby allowed  
94 and made applicable to any taxes collected pursuant to the provisions of this section.

95 (5) The penalties provided in section 32.057, RSMo, and sections 144.010 to 144.525,  
96 RSMo, for violation of those sections are hereby made applicable to violations of this section.



97           (6) For the purpose of a sales tax imposed by a resolution pursuant to this section, all  
98 retail sales except retail sales of motor vehicles shall be deemed to be consummated at the  
99 place of business of the retailer unless the tangible personal property sold is delivered by the  
100 retailer or the retailer's agent to an out-of-state destination or to a common carrier for  
101 delivery to an out-of-state destination. In the event a retailer has more than one place of  
102 business in this state which participates in the sale, the sale shall be deemed to be  
103 consummated at the place of business of the retailer where the initial order for the tangible  
104 personal property is taken, even though the order must be forwarded elsewhere for  
105 acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be  
106 deemed to be consummated at the place of business from which the employee works.

107           5. All sales taxes collected by the transportation development district shall be  
108 deposited by the transportation development district in a special fund to be expended for the  
109 purposes authorized in this section. The transportation development district shall keep  
110 accurate records of the amount of money which was collected pursuant to this section, and the  
111 records shall be open to the inspection of officers of each transportation development district  
112 and the general public.

113           6. (1) No transportation development district imposing a sales tax pursuant to this  
114 section may repeal or amend such sales tax unless such repeal or amendment will not impair  
115 the district's ability to repay any liabilities which it has incurred, money which it has  
116 borrowed or revenue bonds, notes or other obligations which it has issued or which have been  
117 issued by the commission or any local transportation authority to finance any project or  
118 projects.

119           (2) Whenever the board of directors of any transportation development district in  
120 which a transportation development sales tax has been imposed in the manner provided by  
121 this section receives a petition, signed by ten percent of the qualified voters calling for an  
122 election to repeal such transportation development sales tax, the board of directors shall, if  
123 such repeal will not impair the district's ability to repay any liabilities which it has incurred,  
124 money which it has borrowed or revenue bonds, notes or other obligations which it has issued  
125 or which have been issued by the commission or any local transportation authority to finance  
126 any project or projects, submit to the qualified voters of such transportation development  
127 district a proposal to repeal the transportation development sales tax imposed pursuant to  
128 the provisions of this section. If a majority of the votes cast on the proposal by the qualified  
129 voters voting thereon are in favor of the proposal to repeal the transportation development  
130 sales tax, then the resolution imposing the transportation development sales tax, along with  
131 any amendments thereto, is repealed. If a majority of the votes cast by the qualified voters  
132 voting thereon are opposed to the proposal to repeal the transportation development sales tax,

133 then the ordinance or resolution imposing the transportation development sales tax, along  
134 with any amendments thereto, shall remain in effect.

238.252. In addition to all other powers granted by sections 238.200 to 238.275 the  
2 district shall have the following general powers:

3 (1) To sue and be sued in its own name, and to receive service of process, which shall  
4 be served upon the district secretary;

5 (2) To fix compensation of its employees and contractors. All construction contracts  
6 in excess of five thousand dollars between the district and any private person, firm, or  
7 corporation shall be competitively bid and shall be awarded to the lowest and best bidder;

8 (3) To purchase any **real or** personal property necessary or convenient for its  
9 activities. All outright purchases of personal property in excess of one thousand dollars  
10 between the district and any private person, firm or corporation shall be competitively bid and  
11 shall be awarded to the lowest and best bidder;

12 (4) To collect and disburse funds for its activities; and

13 (5) To exercise such other implied powers necessary or convenient for the district to  
14 accomplish its purposes which are not inconsistent with its express powers.

Section B. Because transportation districts help reduce traffic congestion and improve  
2 overall highway safety, the repeal and reenactment of sections 238.207, 238.216, 238.220,  
3 238.235 and 238.252 of this act is deemed necessary for the immediate preservation of the  
4 public health, welfare, peace and safety, and is hereby declared to be an emergency act within  
5 the meaning of the constitution, and the repeal and reenactment of sections 238.207, 238.216,  
6 238.220, 238.235 and 238.252 of this act shall be in full force and effect upon its passage and  
7 approval.